

Message Text

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ACTION EUR-25

INFO OCT-01 EA-11 ISO-00 IO-14 CIAE-00 DODE-00 PM-07 H-03

INR-10 L-03 NSAE-00 NSC-07 PA-04 RSC-01 PRS-01 SP-03

SS-20 USIA-15 EB-11 ACDA-19 SAJ-01 OMB-01 NIC-01

DOT-00 COME-00 DRC-01 DLOS-06 COA-02 FAA-00 SCI-06

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TO SECSTATE WASHDC 1807

INFO AMEMBASSY COPENHAGEN

AMEMBASSY HELSINKI

AMEMBASSY LONDON

AMEMBASSY MOSCOW

AMEMBASSY PARIS

AMEMBASSY REYKJAVIK

AMEMBASSY STOCKHOLM

AMEMBASSY TOKYO

USMISSION NATO

C O N F I D E N T I A L SECTION 1 OF 2 OSLO 1606

E.O. 11652: GDS

TAGS: PFOR PBOR SV NO UR ENRG

SUBJ: CONTINENTAL SHELF OFF SVALBARD: TIME FOR DECISION

PART I

REF: OSLO 1369

BEGIN SUMMARY. NORWAY AND THE USSR HAVE AGREED TO
NEGOTIATE THIS FALL THEIR BOUNDARY IN THE BARENTS SEA.
SINCE THESE NEGOTIATIONS WILL INCLUDE THE BOUNDARY TO
THE EAST OF SVALBARD, THEY GIVE ADDED URGENCY TO AN
EXAMINATION OF US RIGHTS UNDER THE 1920 PARIS TREATY
TO EXPLOIT THE CONTINENTAL SHELF OFF SVALBARD.

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PART I OF THIS MESSAGE DISCUSSES THE ISSUES RAISED BY THE NEGOTIATIONS. PART II ANALYSES THE PROS AND CONS OF THREE OPTIONS OR INTERPRETATIONS OF THE TREATY; NAMELY, THE RIGHT OF THE SIGNATORY POWERS TO MINE ON THE CONTINENTAL SHELF OFF SVALBARD; A MORE LIMITED RIGHT OF EXPLOITATION OF THE SHELF ONLY WITHIN THE TREATY COORDINATE AREA; AND THE NORWEGIAN POSITION THAT SVALBARD HAS NO CONTINENTAL SHELF OF ITS OWN AND THE SIGNATORY POWERS HAVE NO RIGHT TO OFF-SHORE EXPLOITATION BEYOND SVALBARD'S TERRITORIAL WATERS. PART II ALSO SUGGESTS POSSIBLE COURSES OF ACTION UNDER EACH OF THE OPTIONS. ACTION REQUESTED: THE DEPARTMENT'S COMMENTS AND GUIDANCE ARE REQUESTED ON THE OPTIONS AND FOLLOW-UP ACTION SUGGESTED BELOW BY THE EMBASSY. END SUMMARY.

1. THE ISSUES. DURING NORWEGIAN PRIME MINISTER BRATTELI'S RECENT VISIT TO MOSCOW, AGREEMENT WAS REACHED TO "CONTINUE NEGOTIATIONS IN OCTOBER/NOVEMBER ON THE DELIMITATION OF THE CONTINENTAL SHELF BETWEEN NORWAY AND THE SOVIET UNION IN THE BARENTS SEA." THESE NEGOTIATIONS WILL INCLUDE THE BOUNDARY TO THE EAST OF SVALBARD AND BEAR ISLAND.

2. THE CONTINENTAL SHELVES OFF SVALBARD AND BEAR ISLAND ARE OF POTENTIAL INTEREST TO THE US: STRATEGICALLY, BECAUSE OF THEIR LOCATION ALONG THE USSR'S MAIN NAVAL ROUTE INTO THE NORTH ATLANTIC; ECONOMICALLY, BECAUSE OF THE LIKELY EXISTENCE OF OFF-SHORE OIL AND GAS TO WHICH THE US MAY HAVE A CLAIM UNDER THE 1920 PARIS TREATY ON THE STATUS OF THE SPITSBERGEN ARCHIPELAGO.

3. UNDER THE 1920 TREATY THE CONTRACTING PARTIES DELEGATED TO NORWAY SOVEREIGNTY TO THE LAND AREA AND TERRITORIAL WATERS WITHIN THE COORDINATES BETWEEN 10 DEGREES AND 35 DEGREES LONGITUDE EAST AND BETWEEN 74 DEGREES AND 81 DEGREES LATITUDE NORTH, INCLUDING SVALBARD AND BEAR ISLAND. HOWEVER, THE CONTRACTING PARTIES RESERVED CERTAIN RIGHTS, NOTABLY THE RIGHT OF MINERAL EXPLORATION AND THE EXPLOITATION WHICH WERE SHARED IN COMMON WITH NORWAY. THE ISSUE WHETHER THESE MINERAL RIGHTS EXTEND TO THE CONTINENTAL SHELVES OFF

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SVALBARD AND BEAR ISLAND REMAINS UNRESOLVED. NORWAY CLAIMS SVALBARD AND BEAR ISLAND HAVE NO SHELVES, THAT THE SHELVES AROUND THEM ARE EXTENSIONS OF THE NORWEGIAN MAINLAND, AND THAT THE QUESTION OF ANY RIGHTS OF OTHER CONTRACTING PARTIES TO THE MINERAL RESOURCES OF THE SHELVES OFF SVALBARD AND BEAR ISLAND IS THEREFORE MOOT. NORWAY ALSO ARGUES THAT, EVEN IF SVALBARD AND BEAR ISLAND HAD CONTINENTAL SHELVES, THE MINERAL RIGHTS OF OTHER

CONTRACTING PARTIES DO NOT EXTEND TO THOSE SHELVES UNDER THE 1920 TREATY WHICH LIMITS THESE RIGHTS TO THE LAND AREA AND TERRITORIAL WATERS OF SVALBARD AND BEAR ISLAND.

4. SOVIET POSITION. DURING BRATTELI'S RECENT VISIT TO THE USSR, KOSYGIN IS QUOTED AS EXPRESSING RELUCTANCE TO SEE "FOREIGN" INVOLVEMENT IN OIL DEVELOPMENT IN THE BARENTS SEA AND SUGGESTED THAT NORWAY AND THE USSR MIGHT COOPERATE THEMSELVES IN OIL OPERATIONS IN THE AREA (OSLO 1369). IT WAS UNCLEAR WHEN KOSYGIN SPOKE OUT AGAINST "FOREIGN" INVOLVEMENT WHETHER HE WAS INCLUDING WHAT MOSCOW HAS PREVIOUSLY REGARDED AS SVALBARD'S CONTINENTAL SHELF. AT THE 1970 NEGOTIATIONS ON DELIMITATION OF THE CONTINENTAL SHELF IN THE BARENTS SEA, MOSCOW MADE ITS LAST KNOWN OFFICIAL STATEMENT ON THIS QUESTION, CLAIMING IN A MEMORANDUM THAT SIGNATORIES TO THE 1920 TREATY HAD A RIGHT OF MINERAL EXPLOITATION ON SVALBARD'S CONTINENTAL SHELF. SOVIET AMBASSADOR TO NORWAY ROMANOVSKIY IMPLIED IN A CONVERSATION WITH DCM LAST JANUARY (OSLO 512) THAT THERE HAS BEEN NO CHANGE IN THE SOVIET POSITION.

5. DIRECTOR GENERAL FOR LEGAL AFFAIRS KJELL ELIASSEN, WHO WILL PROBABLY LEAD THE NORWEGIAN DELEGATION TO THE BOUNDARY DELIMITATION TALKS NEXT FALL, CLAIMS TO HAVE SEEN NO CHANGE IN THE SOVIET POSITION. POLAR ADVISER AND SPECIALIST ON SVALBARD, BUCHER-JOHANESSEN, ON THE OTHER HAND, TOLD DCM ON MARCH 20 HE DETECTED IN REMARKS BY SOVIET OFFICIALS IN RECENT TALKS ON INTERPRETING JURIDICAL RIGHTS ON SVALBARD AND ON SCIENTIFIC RESEARCH IN THAT AREA, A TREND TO SIDE-STEP THE DISPUTED QUESTION OF WHETHER SVALBARD HAS A CONTINENTAL SHELF OR NOT AND TO FOCUS INSTEAD ON THE AREA SPECIFICALLY DELIMITED IN THE 1920 TREATY, HINTING THAT

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THE RIGHT OF SIGNATORY POWERS TO MINERAL EXPLOITATION (ARTICLE 3) EXTENDS TO THIS AREA.

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6. BUCHER-JOHANNESSEN NOTED THAT THE SHELF EMBRACED WITHIN THE COORDINATES IN THE TREATY HAPPENS TO INCLUDE POTENTIALLY THE RICHEST OIL BEARING SEDIMENTS IN THE SVALBARD REGION. THE SOVIETS SEEM AWARE OF THIS FACT. A SOVIET RESEARCH VESSEL WAS OBSERVED LAST YEAR TAKING SAMPLES OF THE SEA BOTTOM WITHIN THIS AREA -- AN ACTION WHICH THE NORWEGIANS CONSIDERED A VIOLATION OF THEIR SOVEREIGNTY SINCE THE SOVIETS DID NOT REQUEST PERMISSION, BUT WHICH NORWAY DID NOT PROTEST.

7. THE QUESTION ARISES WHETHER KOSYGIN MAY HAVE SINGALED A SHIFT IN THE SOVIET ATTITUDE IN THE DIRECTION OF NORWAY'S POSITION WITH HIS REJECTION OF "FOREIGN" INVOLVEMENT.
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WRITERS ON THE NORWEGIAN POSITION ON THE SHELF OFF SVALBARD LIKE NANSEN FOUNDATION DIRECTOR, FINN SOLLIE, AND RESEARCH DIRECTOR OF THE FOREIGN AFFAIRS INSTITUTE, JOHAN HOLST, ARGUE THAT IT IS IN THE INTEREST OF BOTH SUPER POWERS TO ENSURE THAT SVALBARD AND THE BARENTS SEA DO NOT BECOME TENSION AREAS AS A RESULT OF UNCONTROLLED OIL OPERATIONS NEAR WATERWAYS CONSIDERED VITAL BY THE USSR FOR ITS SECURITY. THEY ARGUE THAT THE ONLY WAY TO PREVENT

DESTABILIZING INTERNATIONAL OIL DRILLING OPERATIONS IN THE AREA BETWEEN NORTH NORWAY AND SVALBARD IS TO MAKE NORWAY THE SOVEREIGN POWER, WITH RESPONSIBILITY FOR SEEING THAT ANY OIL OPERATIONS TAKE PLACE UNDER STRICT NORWEGIAN CONTROL. THERE ARE DIFFERENCES OF VIEW OVER THE QUESTION OF WHETHER THE PRESENCE OF FOREIGN, NOTABLY US, OIL RIGS UNDER NORWEGIAN CONTRACT OR LICENSE WOULD BE A STABILIZING OR UPSETTING FACTOR IN THE NORTH.

AS AN INTERNATIONAL LAWYER, ELIASSEN ASSUMES THAT THE NEGOTIATIONS WITH THE SOVIETS NEXT FALL WILL FOCUS EXCLUSIVELY ON DELIMITATION OF THE BARENTS SEA BOUNDARY. HE EXPECTS THE SOVIETS WILL ARGUE FOR AN "EQUIDISTANT" LINE ADJUSTED AS FAR WEST AS POSSIBLE IN RECOGNITION OF THE USSR'S "SPECIAL CIRCUMSTANCES" (SECURITY, LAND MASS, AND OTHER CRITERIA CITED IN THE 1958 CONTINENTAL SHELF NEGOTIATIONS). HE DOES NOT ANTICIPATE THAT THE ISSUE OF MINERAL EXPLOITATION ON THE SHELVES OFF SVALBARD AND BEAR ISLAND WILL ARISE AS IT DID IN THE 1970 TALKS.

9. ELIASSEN'S MORE POLITICALLY-ORIENTED COLLEAGUES SEEM LESS CONFIDENT. THEY EVIDENTLY FEAR THAT THE USSR WILL TRY TO USE ALL LEVERAGE AT ITS DISPOSAL -- INCLUDING ITS INTERPRETATION OF THE SVALBARD TREATY -- TO GET AS FAVORABLE A DECISION AS POSSIBLE REGARDING THE LOCATION OF THE BOUNDARY LINE, THE QUESTION OF JOINT EXPLORATION FOR OIL, AND THE ROLE OF FOREIGN COMPANIES. IF THE USSR MAINTAINS THAT SVALBARD HAS ITS OWN SHELF, IT COULD PRESUMABLY CLAIM THE RIGHT OF EXPLORATION AND EXPLOITATION EASTWARD FROM SVALBARD RIGHT UP TO THE "MEDIAN" LINE WHERE ITS OWN SHELF WOULD BEGIN. UNDER THIS MORE PESSIMISTIC INTERPRETATION, THE USSR WOULD ACCEPT NORWEGIAN

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SOVEREIGNTY ON THE SHELF OFF SVALBARD ONLY AFTER NORWAY HAD AGREED TO SOVIET TERMS FOR LIMITING FOREIGN OIL OPERATIONS THERE AND, POSSIBLY, FOR JOINT OIL DEVELOPMENT OPERATIONS WITH MOSCOW. NORWAY'S INTENTIONS AND MOSCOW'S REACTION WILL ONLY SURELY BE TESTED WHEN SOME FOREIGN COUNTRY OR FIRM FORMALLY APPLIES FOR MINERAL RIGHTS OFF SVALBARD OR BEAR ISLAND BEYOND THEIR TERRITORIAL WATERS.

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